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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/772,919	01/31/2001	Kazutaka Kochi	122.1435	9988
21171	7590	10/03/2006	EXAMINER	
STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			BOUTAH, ALINA A	
			ART UNIT	PAPER NUMBER
			2143	

DATE MAILED: 10/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/772,919

Applicant(s)

KOCHI ET AL.

Examiner

Alina N Boutah

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-6 and 8-13 is/are allowed.
- 6) ☒ Claim(s) 7 and 14-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

This action is in response to Applicant's amendment filed July 7, 2006. Claims 1-17 are pending in the present application.

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 7, 2006 has been entered.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7, 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 9,078,960 issued to Ballard in view of Microsoft Computer Dictionary (hereinafter referred to as "MCD").

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Regarding claim 7, Ballard teaches an administrative unit managing a plurality of information apparatuses, comprising:

a measuring operating time of each of said plurality of information apparatuses (figure 4A-B; col. 6, lines 3-19); and

a determining unit for determining rotation candidates among said plurality of information apparatuses, based on respective accumulated operating times of said plurality of information apparatuses, with a view to equalizing the accumulated operating times of said respective information apparatuses and notifying said rotation candidate information apparatuses to that effect (col. 5, lines 12-41; col. 6, lines 31-48).

Although Ballard does not explicitly disclose “measuring operating time of each of a plurality of information apparatuses,” as claimed, the PTO respectfully submits that this is taught in figures 4A-B of Ballard. Specifically, these figures illustrate an example of a common data that is store on each of the ISP servers, which consists of the load of each server. In this case, the “load” is interpreted as “operating time” as claimed by the invention. As known in the art of computing, load is defined as “the total computing burden a system carries at one time.” One of ordinary skill in the art would recognize that when a computer system carries a burden, there is inherently a usage or an operating time associated with it.

The cited area of Ballard, specifically col. 5, line 36-37 and col. 6, line 47 teach load balancing by algorithm such as round robin. By definition, “round robin” is a sequential, cyclical allocation of resources to more than one process or device.”

At the time the invention was made, one of ordinary skill in the art would have been motivated to collect accumulating usage time of information apparatuses in order to centrally

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collect the status of the information apparatuses, therefore allowing administrators to control the equipments, thus facilitating the terminal maintenance.

Claims 14-16 are similar to claim 7, therefore are also rejected under the same rationale.

Regarding claim 17, Ballard teaches a computer readable recording medium as set forth in claim 16, having recorded further a program: downloading whole contents relevant to operating environments associated with another computer from said administrative unit for storage after having performed said backup process (col. 2, lines 6-17; col. 5, lines 12-41; col. 6, lines 31-64).

#### ***Allowable Subject Matter***

Claims 1-6 and 8-13 are allowed.

The prior art of record fails to teach or suggest the combination of “determining rotation candidates among said plurality of information apparatuses and sending information apparatuses rotation messages to said rotation candidates” and “backup processing data stored in the rotation candidate information apparatuses in accordance with the messages” as claimed in the independent claims 1, 4, 8, 11 and 12.

#### ***Response to Arguments***

Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

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***Conclusion***

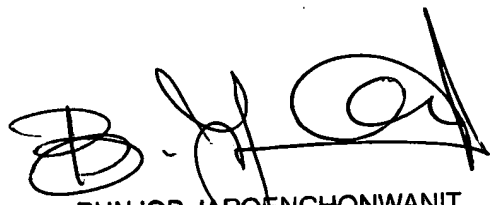
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alina N. Boutah whose telephone number is 571-272-3908. The examiner can normally be reached on Monday-Friday (9:00 am - 5:00 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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BUNJOB JAROENCHONWANIT  
SUPERVISORY PATENT EXAMINER